

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

COUNTY OF WAKE

2016 JUL 20 PM 12:51

SUPERIOR COURT DIVISION

File No. 13 CVS 11838

STATE OF NORTH CAROLINA, *ex rel.*)
ROY COOPER, ATTORNEY GENERAL,)

)

)

Plaintiff,)

)

v.)

)

THE MANDATORY POSTER AGENCY,)
INC., d/b/a CORPORATE RECORDS)
SERVICE and NORTH CAROLINA)
LABOR LAW POSTER SERVICE,)
STEVEN J. FATA, THOMAS FATA,)
and JOE FATA,)

)

)

)

)

)

Defendants.)

)

JUDGMENT BY CONSENT

Plaintiff, State of North Carolina and Defendants, The Mandatory Poster Agency, Inc. d/b/a Corporate Records Service, and North Carolina Labor Law Poster Service ("CRS"), Steven J. Fata, Thomas Fata, and Joe Fata (collectively, the "Parties"), having negotiated a compromise regarding the dispute in the instant action, which has been vigorously contested by the Parties, and desiring to have this action completely and finally terminated, have agreed to entry by the Court of a judgment in the form set forth herein, which the Court finds to be a just and appropriate resolution of the dispute based upon its examination of record, the representations of counsel, and the assent of the Parties as shown by their signatures below to the entry of this Judgment by Consent as follows:

WHEREAS, Plaintiff brought this action against defendants on August 29, 2013 alleging,

inter alia, that defendants violated the Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat.

§ 75-1.1, *et seq.*, by sending deceptive mailings to North Carolina corporations which caused some recipients to believe that they were required to provide CRS with certain corporate information and pay CRS a fee.

WHEREAS, both the Attorney General's Office and the North Carolina Secretary of State's Office received complaints from North Carolina businesses concerning CRS' solicitations.

WHEREAS, recipients complained that the solicitations looked like an official form addressed to North Carolina corporations and businesses. The form arrived in an envelope sent by the following entity: Corporate Records Service, 3434 Edwards Mill Rd Ste 112 #325, Raleigh, N.C. 27612-4276. The envelope was marked: "IMPORTANT Annual Records Requirement Statement" and stated that it was "BUSINESS MAIL - TIME SENSITIVE."

WHEREAS, the form inside the envelope was titled "2013 - ANNUAL CORPORATE RECORDS FORM." The form included spaces for the recipient to identify its shareholders, directors, and officers and includes a suggested timeframe for the business to complete and return the form. The form also reads "Corporate Records Service will prepare and provide corporate records that meet the following requirements of North Carolina law," followed by excerpts from N.C.G.S. Chapter 55, the North Carolina Business Corporations Act, regarding the keeping of minutes of shareholder and director meetings. Lastly, the form indicates the recipient owes Corporate Records Service \$125.00.

WHEREAS, along with the form, "instructions" on how to fill out the form are included in the envelope. The Instructions state to "[s]ubmit the Annual Records Form together with the payment for preparation of documents to satisfy the annual records requirement for your

corporation. Submit payment for \$125.00 payable to Corporate Records Service and mail to: **CORPORATE RECORDS SERVICE, 3434 Edwards Mill Rd Ste 112 #325, Raleigh, N.C. 27612-4276, (888) 408-0886.**

WHEREAS, the North Carolina corporations that paid CRS \$125.00 received a notebook with a one-page shareholder consent and a one-page director consent to actions in lieu of a meeting, which, with the exception of the names of the shareholders and directors, were the same for all of CRS' customers.

WHEREAS, although the solicitations and the envelope that contained them included statements that Corporate Records Service is not a government agency, the overall design of the solicitations led some consumers to believe that the solicitation was a government document required to be completed and mailed with the \$125.00, which it is not.

WHEREAS, some corporations that received the solicitations were confused about their language and form and perceived them to be from the North Carolina Secretary of State or other government agency, when in fact they were not.

WHEREAS, this Court entered a Stipulated Order against Defendants on August 29, 2013, temporarily restraining the defendants from sending further mailings into the state, from processing any payments received from North Carolina corporations in response to earlier mailings, and from opening or forwarding any mailings received from North Carolina corporations in response to those earlier mailings.

WHEREAS, on September 9, 2013, the Court entered an Amended Stipulated Order extending the terms and conditions of its earlier Order for an additional ten days. On September 23, 2013, the Court entered a Consent Order extending most of the terms and conditions of its earlier Orders until final resolution of the case.

WHEREAS, the Parties represent to the Court, and the Court accepts, that by recommending or agreeing to be bound by the following terms and requirements none of them acknowledges or implies that the opposing party or Parties' allegations, claims or defenses in this litigation possess merit or that their own allegations, claims or defenses herein lack merit. Instead, they represent that the terms and conditions below represent a reasonable compromise that is designed to save them and the Court system the heavy expenditures of time and money required to litigate this matter to conclusion.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Court has jurisdiction over the Parties and the subject matter of this action.
2. Good cause exists for the Court to enter judgment as to CRS, as set forth herein.
3. As officers, directors and/or shareholders of CRS, the individual defendants, Steven J. Fata, Thomas Fata and Joe Fata agree that they are bound by the judgment entered as to CRS with respect to the matters set forth herein.
4. Defendants have waived any right to appeal, petition for certiorari, or move to reargue or rehear this judgment and order. Entry of this Consent Judgment is in the public interest.
5. The Parties have agreed to resolve their differences and the agreement of the Parties is just and reasonable with respect to all Parties. The Court approves the terms of the Parties' agreement and adopts them as its own determination of the Parties' respective rights and obligations.
6. CRS will not engage in any unfair or deceptive practices in violation of North Carolina General Statute § 75-1.1, *et seq.*, and will comply with all applicable federal, state, and local laws, rules, and regulations.
7. CRS will cooperate with the Attorney General's Office, including complying with all

investigative demands and subpoenas, in obtaining information about CRS' business operations.

8. CRS will respond in writing to the Attorney General's Office within fourteen (14) days of receiving a consumer complaint from the Attorney General.
9. CRS will not make any false or misleading statements in its solicitations, including any statements on an accompanying envelope or document.
10. CRS will not deceptively or misleadingly advertise or market its goods or services.
11. In all solicitations, CRS must include a toll-free telephone number and email address, which would allow for the recipients of any solicitation to contact Defendant CRS directly with any questions or concerns. This toll-free number must be staffed during normal business hours.
12. CRS agrees that it will immediately remove a corporation, business, consumer, or other entity from its mailing list upon request of that corporation, business, consumer, or entity.
13. CRS will clearly and conspicuously communicate its refund policy in writing to all purchasers of its goods or services.
14. CRS must comply with all refund requests within thirty (30) days upon the request of a corporation, business, consumer, or other entity.
15. In all solicitations, or in any communication with a North Carolina corporation, business, consumer, or other entity, CRS will not represent, expressly or by implication, it is a government agency or performs a government service.
16. In all solicitations, or in any communication with a North Carolina corporation, business, consumer, or other entity CRS will not represent, expressly or by implication, the

~~solicitations were mailed or printed by a government agency or under agreement with a government agency.~~

17. In all solicitations, or in any communication with a North Carolina corporation, business, consumer, or other entity, CRS will not use any words, symbols, identification numbers, or other markings that may cause a reasonable consumer to believe CRS is associated with a government agency or that could reasonably convey a sense of urgency on the recipient of the solicitation. Prohibited words, symbols, and number include, but are not limited to the following:

I. Words and Phrases

- a. Confidential;
- b. Time sensitive;
- c. Official business;
- d. Response required;
- e. Respond immediately;
- f. Required statement; and
- g. Government information enclosed

II. Symbols

- a. Outline of the State of North Carolina
- b. Outline is the United States of America; and
- c. Symbols, excluding stamps and postage marks, that represent that State of North Carolina or the federal government (e.g., North Carolina seal, North Carolina flag, U.S. Flag, bald eagle)

III. Numbers

- a. Random identification number unless CRS uses such numbers to identify the recipient of the solicitation or a specific good or service;
- b. Statutes, regulations, or other legal citations that are inaccurate or inapplicable to North Carolina consumers; and

e. Artificial deadlines (e.g., dates). This prohibition excludes legitimate deadlines that limit a consumer's time to accept a reduced-price offer to purchase goods or services from CRS, and excludes the following language: "please respond by.....".

18. In all solicitations, or in any communication with a North Carolina corporation, business, consumer, or other entity, CRS will not represent, expressly or by implication, the solicitation is a requirement of the North Carolina Secretary of State's Office; a recipient is required to use CRS' services in order to comply with a requirement of North Carolina law; a recipient will satisfy all corporate record keeping requirements under North Carolina law by using CRS' services; or CRS' services satisfy filings to be made with the North Carolina secretary of State's office.

19. Any and all envelopes containing a CRS solicitation sent by CRS must include on its face in bold type the following: "**THIS IS NOT A GOVERNMENT DOCUMENT**" and "**SOLICITATION.**" The bold type must be capitalized and in a font size at least as the largest type appearing anywhere else on the face of the envelope. The word "solicitation" must immediately follow any use of the phrase "Annual Minutes", "Annual Records", or any other like phrase, located on the face of the envelope.

20. Envelopes containing a CRS solicitation sent by CRS will not display a return address of Raleigh, North Carolina.

21. In all solicitations, CRS must prominently display the name and address of the company offering the goods or services. The address must be that of the name of the city and state where CRS' business is physically located, currently Lansing, Michigan.

22. In all solicitations, CRS will not reproduce any North Carolina statute in a way that is misleading or deceptive, and must only include the most current version of the North Carolina statute in question.

23. In all solicitations, CRS will not include any "deadlines" by which the consumer must respond. However, the following language is acceptable: "Please respond by...."

24. On the first page of a CRS solicitation sent to a North Carolina corporation, business, consumer, or other entity, CRS must include in bold type the phrase "**SOLICITATION FOR SERVICES**" at the top of the page. This phrase must appear above all other text on the page, and the bold type must be capitalized and in a font size at least as large as the largest type appearing anywhere else on the document.

25. On the first page of a CRS solicitation sent to a North Carolina corporation, business, consumer, or other entity, CRS must include in bold type or all capitalized letters the following language: "Corporate Records Service is not a government agency and is not affiliated with the North Carolina Secretary of State or any other government agency." The type must be in a font size at least as large as the primary text in the document.

26. On a CRS solicitation sent to a North Carolina corporation, business, consumer, or other entity, CRS must include in bold type or all capitalized letters the following language: "Failure to return this form or remit payment will have no effect on your ability to continue conducting business within the State of North Carolina." The type must be in a font size at least as large as the primary text in the document.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, with the consent of the Parties and pursuant to N.C. Gen. Stat. §§ 75-14 and 15.1, that:

1. Within 30 days of the entry hereof and at their expense, CRS shall, at its own expense,

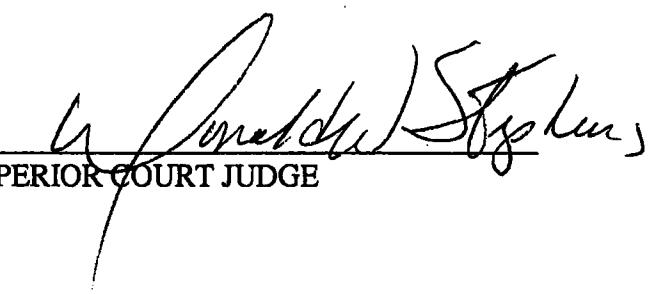
send the letter attached hereto as Exhibit A to all North Carolina entities that paid \$125.00 for CRS's services and have not been refunded. The letter must be sent within 30 days of the entry of this Consent Judgment. The recipient will have 120 days from the date of the entry of this Consent Judgment to respond to CRS' letter and request a refund. CRS shall make all refunds by certified check no later than 30 days from the postmarked date of the refund request.

2. Also within 30 days of the entry hereof, CRS shall supply Plaintiff with legible electronic copies (PDF format) or photocopies of all cover letters called for in the preceding paragraph, as well as a spreadsheet listing the name, address, and phone number of all recipients of the letter.
3. Within 180 days of the entry hereof, the individual CRS shall submit to the Attorney General's Office copies of all refunds checks and an affidavit attesting that all requirements of the two preceding paragraphs have been met. The affidavit shall include the following information: (1) which letters, if any, were returned as undeliverable and what efforts were made to find a current address, (2) how many and which customers requested a refund, (3) the total dollar amounts of the refunds, and (4) the date the refund was provided to the customer.
4. CRS shall pay the sum of \$10,000 to the State of North Carolina. Payment shall be tendered to the Plaintiff in care of the undersigned Creecy C. Johnson, Special Deputy Attorney General, by means of a check made payable to "The North Carolina Department of Justice." Such check shall be drawn against certified funds or from a client trust account of the undersigned counsel for defendants. Plaintiff shall apply payment received hereunder to costs, attorneys' fees, restitution, consumer protection purposes,

and other purposes allowed by law, in the discretion of the Attorney General.

5. The Court retains jurisdiction in this cause in order to ensure the Parties' compliance with the foregoing provisions and to entertain any appropriate motions for the modification thereof.

This the 19 day of July, 2016.



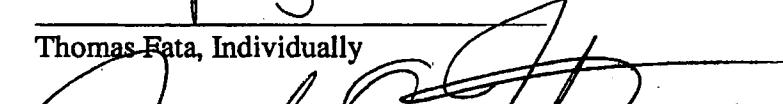
SUPERIOR COURT JUDGE

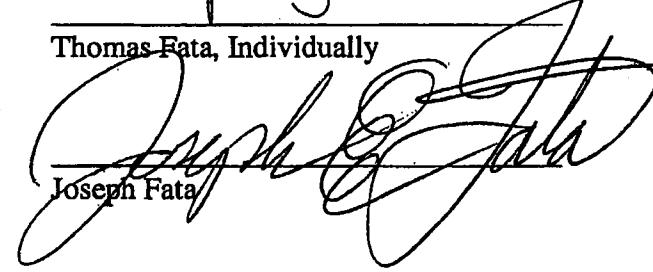
WE CONSENT:

Defendants

The Mandatory Poster Agency, Inc.
By Steven J. Fata, President

Steven J. Fata, Individually

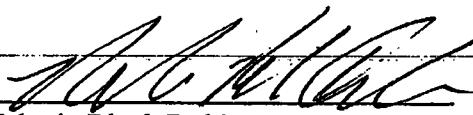

Thomas Fata, Individually


Joseph Fata


Attorneys for Defendants



David Brake
Knaggs, Harger, Brake & Schneider
7521 Westshire Dr., Ste. 100
Lansing, Michigan 18917



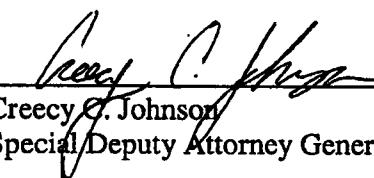
Melanie Black Dubis

Parker Poe Adams & Bernstein, LLP
301 Fayetteville Street, Ste. 1400
Raleigh, NC 27601

Attorneys for Plaintiff

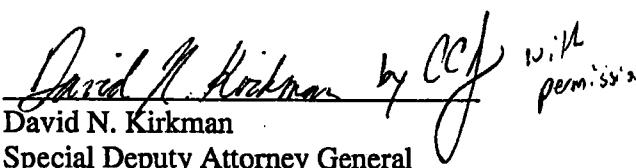
ROY COOPER, ATTORNEY GENERAL

By:



Creecy C. Johnson
Special Deputy Attorney General

By:



David N. Kirkman by CCJ
Special Deputy Attorney General
North Carolina Department of Justice
Consumer Protection Division

EXHIBIT A

Dear North Carolina Corporation:

In 2013, you mailed a check plus information about your company to Corporate Records Service, Inc. This was in response to a direct mail solicitation from us offering to prepare corporate documents for you.

We have resolved a dispute with the North Carolina Attorney General's Office regarding the contents of that solicitation. We are now offering you the opportunity to request a refund as part of that resolution.

If you believed that our solicitation came from a government agency, that we offered to prepare government filings, or misunderstood the service we offered in any way, please fill out the attached form and send it to the address at the top of the form. We will provide you a refund within 30 days of receiving your form.

If you have any questions about this matter, please feel free to contact us at (877) 321-4144, or contact Julie Daniel at the Attorney General's Office at (919) 716-6000.

With best regards,

Corporate Records Service, Inc.

**CLAIM FORM
FOR CORPORATE RECORDS SERVICES, INC. RESTITUTION**

PLEASE PRINT LEGIBLY and keep a copy for your records.

Name of Corporation: _____

Mailing Address: _____

Phone# () _____

e-mail address (not required) _____

I would like to claim a refund from Corporate Records Services, Inc. for this corporation's payment in the amount of \$125.00.

(Print Name)

(Signature)

(Date)

**PLEASE COMPLETE AND SIGN THIS CLAIM FORM AND RETURN THE ORIGINAL BY
XXXX, 2016 TO:**

Corporate Records Services
5859 West Saginaw Hwy.
Lansing MI 48917-2460